

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK**

GERALD P. CZUBA, individually and on  
behalf of a Class of others similarly  
situated,

Plaintiff,

V.

IKO MANUFACTURING, INC., a  
Delaware Corporation,

Defendant.

Case No. 09-CV-0409

Hon. William M. Skretny

**NOTICE OF MOTION FOR EXTENSION OF TIME TO ANSWER  
OR OTHERWISE RESPOND TO PLAINTIFF'S COMPLAINT**

Moving Party: Defendant, IKO Manufacturing, Inc.

Date and Time: At a date and time to be determined by the Court.

Place: U.S. Courthouse, 68 Court Street, 4<sup>th</sup> Floor, Buffalo,  
New York

Supporting Papers: Declaration of Joseph W. Dunbar, Esq.

Relief Requested: An order granting Defendant an extension of time to answer or otherwise respond to Plaintiff's complaint.

Grounds for Relief: FRCP Rule 6(b).

Answering Papers: If any, are required to be served at least three business days prior to the return date of this motion, in accordance with Local Rule 7.1(c).

Oral Argument:

Not requested.

DATED: July 20, 2009

Respectfully submitted,

DAMON & MOREY, LLP

By: s/Joseph W. Dunbar

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***Attorneys for Defendant,  
IKO MANUFACTURING, INC.***

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK**

GERALD P. CZUBA, CURTIS CZAJKA,	)	
and RICHARD PELE individually and on	)	
behalf of a Class of others similarly	)	
situated,	)	
	)	Case No. 09-CV-0409
Plaintiff,	)	
	)	Hon. William M. Skretny
v.	)	
	)	
IKO MANUFACTURING, INC., a	)	
Delaware Corporation,	)	
Defendants.		

**UNOPPOSED MOTION FOR AN EXTENSION OF TIME TO  
ANSWER OR OTHERWISE RESPOND TO PLAINTIFFS' AMENDED COMPLAINT**

Defendant IKO Manufacturing, Inc. (“IKO”)<sup>1</sup> respectfully requests that this Court grant it an extension of time to file an answer or otherwise respond to Plaintiffs Amended Complaint. In support, IKO states the following:

1. Plaintiff Gerald Czuba filed his Complaint on April 29, 2009. (Dkt. No. 1). IKO was served with the Complaint on May 4, 2009. (Dkt. No. 6). On June 26, 2009, this court granted IKO’s Unopposed Motion for an Extension of Time to Answer or Otherwise Respond to Plaintiff’s Complaint, extending the time to answer or otherwise respond until July 20, 2009. (Dkt. No. 28). On June 25, 2009, Plaintiffs filed an Amended Complaint. (Dkt. No. 26).

2. This Amended Complaint is similar, if not identical, to other complaints filed in other federal courts. *See Zanetti v. IKO Manufacturing, Inc.*, No. 2:09-cv-2017 (D.N.J. filed April 29, 2009); *McNeil et al. v. IKO Manufacturing, Inc.*, No. 2:09-cv-02105 (C.D. Ill. filed

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<sup>1</sup> In the caption of Plaintiff’s Complaint, Plaintiff mistakenly identified IKO Manufacturing, Inc. as “IKO Manufacture, Inc.”

April 30, 2009); *Michael Hight and Michael Augustine v. IKO Manufacturing, Inc.* et al, No. 2:09-cv-0088 (W.D. Wa. filed June 29, 2009).

3. The Parties are currently in discussions about consolidating these actions before a single federal court. The Parties intend to file a motion (or separate motions) with the Judicial Panel on Multidistrict Litigation within the next two weeks.

4. Accordingly, IKO respectfully requests at this time for an Order deferring the time to answer or otherwise respond to Plaintiffs' Amended Complaint until thirty (30) days after the Judicial Panel on Multidistrict Litigation has issued its ruling on the location of the consolidated cases. A proposed order is attached.

5. IKO's counsel has contacted the attorneys for Plaintiffs and is advised that the Plaintiffs consent to the relief requested herein.

WHEREFORE, Defendant IKO Manufacturing, Inc. requests that this Court grant it an Order deferring the time to answer or otherwise respond to Plaintiffs' Amended Complaint until thirty (30) days after the Judicial Panel on Multidistrict Litigation has issued its ruling on the location of the consolidated cases..

DATED: July 20, 2009

Respectfully submitted,

DAMON & MOREY, LLP

By: s/Joseph W. Dunbar

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*Attorneys for Defendant,*  
***IKO MANUFACTURING, INC.***

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FOR THE WESTERN DISTRICT OF NEW YORK**

GERALD P. CZUBA, CURTIS CZAJKA, )  
and RICHARD PELE individually and on )  
behalf of a Class of others similarly )  
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Case No. 09-CV-0409

Hon. William M. Skretny

IKO MANUFACTURING, INC., a )  
Delaware Corporation, )

Defendants.

**[PROPOSED] ORDER**

Upon consideration of Defendant IKO Manufacturing, Inc.'s Unopposed Motion for an Extension of Time to Answer or Otherwise Respond to Plaintiffs' Amended Complaint, it is hereby ORDERED that the Motion is GRANTED, and the time for IKO Manufacturing, Inc. to answer or otherwise plead in this matter is deferred until thirty (30) days after the Judicial Panel on Multidistrict Litigation has issued its ruling on the location of the consolidated cases.

Dated: \_\_\_\_\_

Hon. William M. Skretny

**Certificate of Service**

I, Joseph W. Dunbar, Esq. hereby certify and affirm that on the 20<sup>th</sup> day of July, 2009, I electronically filed the foregoing **UNOPPOSED MOTION FOR AN EXTENSION OF TIME TO ANSWER OR OTHERWISE RESPOND TO PLAINTIFFS' AMENDED COMPLAINT** with the Clerk of the United States District Court for the Western District of New York using its CM/ECF system, which would then electronically notify the following CM/ECF system, which would then electronically notify the following CM/ECF participants of this filing:

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And, I further certify and affirm that I have mailed the foregoing via post-paid first class mail, to the following non-CM/ECF participants:

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s/Joseph W. Dunbar

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